

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DAVID D. RICHARDSON,

Petitioner,

v.

BRIAN THOMPSON, *et al.*,

Defendants.

CIVIL ACTION

NO. 12-1238

**FILED**

MAY 28 2013

MICHAEL E. KUNZ, Clerk  
By: \_\_\_\_\_ Dep. Clerk

**ORDER**

The Court has carefully reviewed all pleadings, the full record, and the Report and Recommendation filed by U.S. Magistrate Judge Arnold C. Rapoport (Dkt. No. 11) (“R&R”). The Court has also reviewed the Objections filed by Petitioner (Dkt. No. 12), and fully concurs with Magistrate Judge Rapoport’s conclusions; Petitioner’s contentions are without merit,<sup>1</sup> and thus are insufficient to justify an evidentiary hearing. *Williams v. Beard*, 637 F.3d 195 (3d Cir.

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<sup>1</sup>Magistrate Judge Rapoport concludes that the “state courts’ application of *Strickland* [*v. Washington*, 466 U.S. 668 (1984)] to Petitioner’s three ineffectiveness claims was not unreasonable” (R&R at 10). Specifically, Petitioner’s trial counsel’s failure to cross-examine a witness for the Commonwealth, regarding alleged racial bias against Petitioner, resulted in harmless error, in light of the other overwhelming evidence of Petitioner’s guilt, and did not prejudice Petitioner (R&R 12-13), as did his counsel’s stipulation to admission of a particular bank surveillance photograph (R&R 15). Petitioner’s counsel’s failure to object to the “best evidence” rule during a Commonwealth witness’s testimony did not constitute ineffective assistance, as said rule did not apply (R&R 17). Additionally, Magistrate Judge Rapoport finds that the state Superior Court was “not unreasonable in finding that a sufficient colloquy was engaged in” regarding the charges and maximum punishment and fines Petitioner faced, that Petitioner cannot show any actual injury or prejudice from said colloquy, and that Petitioner proceeded *pro se* “without hesitation” (R&R 22-23).

Upon careful *de novo* review of the state court record, this Court concurs; Petitioner has failed to raise any objections beyond reiteration of the underlying arguments in his Petition. *See Cherry v. Wynder*, Civ. No. 05-2560, 2007 WL 983826, at \*7-9 (E.D. Pa. Mar. 26, 2007) (objections which do not respond to magistrate judge’s recommendation on claim, but instead repeat assertions raised in petition, are properly overruled).

2011). Petitioner has not presented any compelling basis to disturb the decisions of the Pennsylvania courts.

AND NOW, this 28<sup>th</sup> day of May, 2013, it is hereby ORDERED that:

1. The Report and Recommendation of Magistrate Judge Arnold C. Rapoport is APPROVED and ADOPTED;
2. Petitioner's request for an evidentiary hearing is DENIED;
3. The Petition for a Writ of *Habeas Corpus* is DENIED;
4. A Certificate of Appealability WILL NOT issue; and
5. The Clerk of Court shall mark this case closed for all purposes, including statistics.

BY THE COURT:



C. DARNELL JONES, II